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*GMAT LEGAL TITLE TRUST 2013-1, U.S. BANK,*

*NATIONAL ASSOCIATION, AS LEGAL TITLE*

*TRUSTEE*

**UNITED STATES DISTRICT COURT**

**DISTRICT OF NEVADA**

GMAT LEGAL TITLE TRUST 2013-1, U.S.  
BANK, NATIONAL ASSOCIATION, AS  
LEGAL TITLE TRUSTEE,

Plaintiff,

vs.

SFR INVESTMENTS POOL I, LLC; DOES  
I through X; and ROE CORPORATIONS I  
through X,

Defendants.

Case No.:

Dept. No.:

**COMPLAINT FOR QUIET TITLE**

**ARBITRATION EXEMPT:  
CLAIMS INVOLVE TITLE TO REAL  
PROPERTY AND EQUITABLE  
RELIEF AND EQUITABLE RELIEF**

COMES NOW, Plaintiff GMAT Legal Title Trust 2013-1, U.S. Bank, National Association, as Legal Title Trustee (hereinafter, "U.S. Bank"), by and through its attorneys of record, Edgar C. Smith, Esq., and Christopher Swift, Esq., of the law firm of Wright, Finlay & Zak, LLP, hereby asserts its claims against the above-named Defendants as follows:

**INTRODUCTION**

**1.** This action is within the jurisdictional limits of this Court and this Venue is appropriate because the real property involved is located within the jurisdiction of this Court. U.S. Bank is also authorized to bring this action in the State of Nevada by NRS 40.430.

**2.** The real property which is the subject of this civil action consists of a residence commonly known as 20942 White Rock Drive, Reno, NV, APN No. 556-063-01 (hereinafter

1 “the Property”).

2 **JURISDICTION AND VENUE**

3 3. The Court has subject matter jurisdiction over this matter pursuant to 28 U.S.C. §  
4 1332, as Plaintiff is a “citizen of a different States” from all defendants and the amount in  
5 controversy exceeds \$75,000, exclusive of interest and costs

6 4. Venue and jurisdiction is proper in this judicial district because Defendants  
7 reside in this district; a substantial part of the events or omissions giving rise to U.S. Bank’s  
8 claims occurred in this district; and the property that is the subject of this action is situated in  
9 this district, in Reno, Washoe County, Nevada.

10 **PARTIES**

11 5. U.S. Bank is an entity authorized to do business in the state of Nevada. U.S.  
12 Bank is now and at all times relevant herein is the Beneficiary under the Deed of Trust signed  
13 by Jamie A. Valdivia and Nancy M. Iglesias and Victor Bernal-Anguiano (hereinafter  
14 “Valdivia”), recorded on January 11, 2008 (hereinafter “Deed of Trust”), and which encumbers  
15 the Property and secures repayment of a promissory note.

16 6. Upon information and belief, Kern & Associates, Inc. (hereinafter “HOA  
17 Trustee”) is a Nevada corporation, licensed to do business in the State of Nevada.

18 7. Upon information and belief, White Lake Ranch Association (hereinafter the  
19 “HOA”) is a Nevada non-profit corporation, licensed to do business in the State of Nevada.

20 8. Upon information and belief, Defendant SFR Investments Pool I, LLC,  
21 (hereinafter “Buyer”) is a limited liability company doing business in the State of Nevada.

22 9. U.S. Bank does not know the true names, capacities or bases of liability of  
23 fictitious Defendants sued as Does I through X and Roe Corporations I through X (collectively  
24 “fictitious Defendants”). Each fictitiously named defendant is in some way liable to U.S. Bank  
25 or claims some rights, title, or interest in the Property that is subsequent to or subject to the  
26 interests of U.S. Bank, or both. U.S. Bank will amend this Complaint to reflect the true names  
27 of said defendants when the same have been ascertained.  
28



1           10. Upon information and belief, one or more fictitious Defendants are the agents of  
2 the HOA, and the HOA is responsible for their acts and omissions under the doctrine of  
3 respondeat superior.

4                                   **GENERAL ALLEGATIONS**

5           11. On or about January 7, 2008, Valdivia purchased the Property.<sup>1</sup>

6           12. Public records show that on January 3, 2008, the First Deed of Trust executed by  
7 Valdivia identified The Mortgage Depot, Inc. as the lender, Marquis Title and Escrow as the  
8 trustee, and Mortgage Electronic Registration Systems, Inc. ("MERS") as the beneficiary and  
9 secured a loan in the amount of \$210,595.00 (hereinafter the "Valdivia Loan").<sup>2</sup>

10          13. Public records show that on September 30, 2009, a Corporation Assignment  
11 Deed of Trust was recorded whereby MERS assigned all its beneficial interest under the Deed  
12 of Trust to BAC Home Loans Servicing, LP FKA Countrywide Home Loans Servicing LP.<sup>3</sup>

13          14. Public records show that on July 5, 2013, a Corporation Assignment Deed of  
14 Trust was recorded whereby Bank of America, N.A., Successor by Merger to BAC Home Loans  
15 Servicing, LP FKA Countrywide Home Loans Servicing LP, assigned all its beneficial interest  
16 under the Deed of Trust to the Secretary of Housing and Urban Development.<sup>4</sup>

17          15. Public records show that on July 18, 2013, a Corporation Assignment Deed of  
18 Trust was recorded whereby the Secretary of Housing and Urban Development assigned all its  
19 beneficial interest under the Deed of Trust to RBS Financial Products, Inc.<sup>5</sup>

20          16. Public records show that on July 18, 2013, an Assignment Deed of Trust was  
21 recorded whereby the RBS Financial Products, Inc. assigned all its beneficial interest under the  
22

23 <sup>1</sup> A true and correct copy of the Grant, Bargain, Sale Deed recorded in the Washoe County  
24 Recorder's Office as Document Number 3610775, is attached hereto as **Exhibit 1**. All other  
recordings stated hereafter are recorded in the same manner.

25 <sup>2</sup> A true and correct copy of the Deed of Trust recorded as Document Number 3610777, is  
attached hereto as **Exhibit 2**.

26 <sup>3</sup> A true and correct copy of the Corporation Assignment of Deed of Trust recorded as  
Document Number 3807199, is attached hereto as **Exhibit 3**.

27 <sup>4</sup> A true and correct copy of the Corporation Assignment of Deed of Trust recorded as  
Document Number 4255588, is attached hereto as **Exhibit 4**.

28 <sup>5</sup> A true and correct copy of the Corporation Assignment of Deed of Trust recorded as  
Document Number 4259065, is attached hereto as **Exhibit 5**.

1 Deed of Trust to U.S. Bank, National Association, as trustee on behalf of GRA Legal Title Trust  
2 2013-1.<sup>6</sup>

3 17. Public records show that May 6, 2014, a Corporation Assignment of Deed of  
4 Trust was recorded whereby the beneficial interest of the Deed of Trust was assigned to  
5 Plaintiff U.S. Bank.<sup>7</sup>

6 18. U.S. Bank is the current beneficiary under the Deed of Trust.

7 19. Public records show that on November 18, 2009, a Notice of Delinquency &  
8 Lien Upon Real Property was recorded against the Property by the HOA.<sup>8</sup>

9 20. Public records show that on January 21, 2011, a Notice of Delinquent  
10 Assessment and Claim of Lien was recorded against the Property by the HOA Trustee on behalf  
11 of the HOA.<sup>9</sup>

12 21. Public records show that on April 19, 2011, a Notice of Default and Election to  
13 Sell was recorded against the Property by the HOA Trustee on behalf of the HOA.<sup>10</sup>

14 22. Public records show that on October 2, 2012, a Notice of Homeowners  
15 Association Sale was recorded against the Property by the HOA Trustee on behalf of the  
16 HOA.<sup>11</sup>

17 23. Upon information and belief, pursuant to the Notice of Homeowners Association  
18 Sale, a non-judicial foreclosure sale occurred on November 14, 2012 (hereinafter the "HOA  
19 Sale"), whereby the White Lake Ranch HOA acquired its interest, if any, in the Property for  
20 \$600.00.

21  
22 <sup>6</sup> A true and correct copy of the Assignment of Deed of Trust recorded as Document Number  
23 4280199, is attached hereto as **Exhibit 6**.

24 <sup>7</sup> A true and correct copy of the Corporation Assignment of Deed of Trust recorded as Document  
25 Number 4352222, is attached hereto as **Exhibit 7**.

26 <sup>8</sup> A true and correct copy of the Notice of Delinquency & Lien Upon Real Property recorded as  
27 Document Number 3822465 on November 18, 2009, is attached hereto as **Exhibit 8**.

28 <sup>9</sup> A true and correct copy of the Notice of Delinquent Assessment and Claim of Lien recorded  
as Document Number 3966193 on January 21, 2011, is attached hereto as **Exhibit 9**.

<sup>10</sup> A true and correct copy of the Notice of Default and Election to Sell recorded as Document  
Number 3994818 on April 19, 2011, is attached hereto as **Exhibit 10**.

<sup>11</sup> A true and correct copy of the Notice of Homeowners Association Sale recorded as  
Document Number 4158500 on October 2, 2012, is attached hereto as **Exhibit 11**.



1           24. Public records show that on November 30, 2012, a Deed in Foreclosure of  
2 Assessment Lien was recorded by which White Lake Ranch HOA claimed its interest in the  
3 Property.<sup>12</sup>

4           25. Public records show that on June 6, 2014, a Quitclaim Deed was recorded by  
5 which White Lake Ranch HOA sold its interest in the property to SFR Investments Pool 1,  
6 LLC, the current record owner of the Property.<sup>13</sup>

7           26. A homeowner's association sale conducted pursuant to NRS Chapter 116 must  
8 comply with all notice provisions as stated in NRS 116.31162 through NRS 116.31168 and  
9 NRS 107.090.

10           27. A lender or holder, such as U.S. Bank, has a right to cure a delinquent  
11 homeowner's association lien in order to protect its security interest in the Property.

12           28. Further, the CC&Rs require reasonable notice of delinquency to all lien holders  
13 on the Property.

14           29. Upon information and belief, the HOA and HOA Trustee did not comply with all  
15 mailing and noticing requirements stated in NRS 116.31162 through NRS 116.31168.

16           30. The HOA Sale occurred without notice to U.S. Bank, or its agents, servicers or  
17 trustees, what portion of the lien, if any, that the HOA claimed constituted a "super-priority"  
18 lien.

19           31. The HOA Sale occurred without notice to U.S. Bank, or its predecessors, agents,  
20 servicers or trustees, whether HOA was foreclosing on the "super-priority" portion of its lien, if  
21 any, or under the non-super-priority portion of the lien.

22           32. The HOA Sale occurred without notice to U.S. Bank, or its predecessors, agents,  
23 servicers or trustees, of a right to cure the delinquent assessment, and the super-priority lien, if  
24 any.

25  
26  
27 <sup>12</sup> A true and correct copy of the Deed in Foreclosure of Assessment Lien recorded as  
Document Number 4179738 on November 30, 2012, is attached hereto as **Exhibit 12**.

28 <sup>13</sup> A true and correct copy of the Quitclaim Deed recorded as Document Number 4361566 on  
June 6, 2014, is attached hereto as **Exhibit 13**.

1           **33.**     The HOA Sale violated U.S. Bank's rights to due process because it was not  
2 given proper, adequate notice and the opportunity to cure the deficiency or default in the  
3 payment of the HOA's assessments and the super-priority lien, if any.

4           **34.**     The HOA Sale was an invalid sale and could not have extinguished U.S. Bank's  
5 secured interest because of defects in the notices given to U.S. Bank, or its agents, servicers or  
6 trustees, if any.

7           **35.**     Under NRS Chapter 116, a lien under NRS 116.3116(1) can only include costs  
8 and fees that are specifically enumerated in the statute.

9           **36.**     A homeowner's association may only collect as a part of the super priority lien  
10 (a) nuisance abatement charges incurred by the association pursuant to NRS 116.310312 and (b)  
11 nine months of common assessments which became due prior to the institution of an action to  
12 enforce the lien (unless Fannie Mae and Freddie Mac regulations require a shorter period of not  
13 less than six months).

14           **37.**     Upon information and belief, the HOA Sale notices included improper fees and  
15 costs in the amount demanded.

16           **38.**     The attorney's fees and the costs of collecting on a homeowner's association lien  
17 cannot be included in the super-priority lien.

18           **39.**     Upon information and belief, the HOA assessment lien and foreclosure notices  
19 included fines, interest, late fees, dues, attorney's fees, and costs of collection that are not  
20 properly included in a super-priority lien under Nevada law and that are not permissible under  
21 NRS 116.3102 *et seq.*

22           **40.**     The HOA Sale is unlawful and void under NRS 116.3102 *et seq.*

23           **41.**     The HOA Sale is unlawful and void because the "opt-in" provision in NRS  
24 116.3116 does not satisfy Constitutional Due Process safeguards under the 5<sup>th</sup> and 14<sup>th</sup>  
25 Amendment to the United States Constitution, nor Clause 1, Section 8, of the Nevada  
26 Constitution, so that the statute is unconstitutional on its face.

27           **42.**     The HOA Sale is unlawful and void because the statutory scheme set forth in  
28 NRS 116.3116, *et seq.* constitutes a regulatory taking of private property without adequate



1 compensation so the statute is unconstitutional on its face.

2       **43.** The HOA Sale deprived U.S. Bank of its right to due process because the  
3 foreclosure notices failed to identify the super-priority amount, to adequately describe the  
4 deficiency in payment, to provide U.S. Bank notice of the correct super-priority amount, and to  
5 provide a reasonable opportunity to satisfy that amount.

6       **44.** A homeowner's association sale must be done in a commercially reasonable  
7 manner.

8       **45.** At the time of the HOA Sale, the amount owed on the Valdivia Loan exceeded  
9 the fair market value by a substantial margin.

10       **46.** Upon information and belief, at the time of the HOA Sale, the fair market value  
11 of the Property was approximately \$93,000.00.

12       **47.** The amount paid at the HOA Sale allegedly totaled \$600.00.

13       **48.** The sales price at the HOA Sale is not commercially reasonable, and not done in  
14 good faith, when compared to the debt owed to U.S. Bank on the Valdivia Loan and the fair  
15 market value of the Property.

16       **49.** The HOA Sale by which Buyer took its interest was commercially unreasonable  
17 if it extinguished U.S. Bank's Deed of Trust.

18       **50.** In the alternative, the HOA Sale was an invalid sale and could not have  
19 extinguished U.S. Bank's secured interest because it was not a commercially reasonable sale.

20       **51.** By not providing U.S. Bank, or its agents, servicers or trustees, notice of the  
21 correct super-priority amount and a reasonable opportunity to satisfy that amount, including the  
22 HOA and HOA Trustee's failure to identify the super-priority amount and their failure to  
23 adequately describe the deficiency in payment as required by Nevada law, the HOA Sale is  
24 commercially unreasonable and deprived U.S. Bank of its right to due process.

25       **52.** Pursuant to NRS 116.31162(1) an association may only proceed with foreclosure  
26 under NRS 116.31162 – 116.31168 if the declaration or CC&Rs so provide.

27       **53.** The circumstances of the HOA Sale of the Property breached the HOA's  
28 obligation of good faith under NRS 116.1113 and its duty to act in a commercially reasonable

1 manner.

2       **54.** Upon information and belief, Buyer is in the business of buying and selling real  
3 estate and/or is otherwise a professional property purchaser, and either knew or should have  
4 known of defects with the HOA Sale and the sales price.

5       **55.** Upon information and belief, Buyer had actual, constructive and/or inquiry  
6 notice of the First Deed of Trust and the CC&Rs including the Mortgagee Protection Clause,  
7 and further had no notice of any claimed super-priority lien or the amounts therein.

8       **56.** Upon information and belief, Buyer knew or should have known that he would  
9 not be able to obtain insurable title to the Property as a result of the HOA Sale.

10       **57.** As a direct and proximate result of the foregoing, Buyer is not entitled to bona  
11 fide purchaser protection.

12       **58.** In the event U.S. Bank's interest in the Property is not reaffirmed nor restored,  
13 U.S. Bank suffered damages in the amount of the fair market value of the Property or the unpaid  
14 balance of the Valdivia Loan and Deed of Trust, at the time of the HOA Sale, whichever is  
15 greater, as a proximate result of Defendants' acts and omissions.

16       **59.** NRS Chapter 116 is unconstitutional on its face and the HOA Sale is unlawful  
17 and void because the "opt-in" provision in NRS 116.3116 does not satisfy Constitutional Due  
18 Process safeguards under the 14<sup>th</sup> Amendment to the United States Constitution, nor Clause 1,  
19 Section 8, of the Nevada Constitution.

20       **60.** NRS Chapter 116 is unconstitutional on its face and the HOA Sale is unlawful  
21 and void because the statutory scheme set forth in NRS 116.3116 et seq. constitutes a regulatory  
22 taking of private property without adequate compensation.

23       **61.** NRS Chapter 116 is unconstitutional on its face as it lacks any express  
24 requirement for an HOA or its agents to provide notice of a foreclosure to the holder of a first  
25 deed of trust or mortgage.

26       **62.** NRS Chapter 116 is unconstitutional on its face as it lacks any express  
27 requirement for an HOA or its agents to provide notice of the super-priority amount, if any, to  
28 the holder of a first deed of trust or mortgage or to accept tender of the super-priority amount or



1 any amount from the holder.

2       **63.**     NRS Chapter 116 is unconstitutional on its face due to vagueness and ambiguity.

3                               **FIRST CAUSE OF ACTION**

4       **(Quiet Title/Declaratory Relief Pursuant to 28 U.S.C. § 2201, NRS 30.010 *et seq.* and NRS**  
5                               **40.010 *et seq.* versus Buyer and all fictitious Defendants)**

6       **64.**     U.S. Bank incorporates and re-alleges all previous paragraphs, as if fully set  
7 forth herein.

8       **65.**     Pursuant to 28 U.S.C. § 2201, NRS 30.010 *et seq.* and NRS 40.010, this Court  
9 has the power and authority to declare U.S. Bank's rights and interests in the Property and to  
10 resolve Defendants' adverse claims in the Property *et seq.*

11       **66.**     Further, pursuant to NRS 30.010 *et seq.*, this Court has the power and authority  
12 to declare the rights and interest of the parties following the acts and omissions of the HOA in  
13 foreclosing the Property.

14       **67.**     U.S. Bank's Deed of Trust is a first secured interest on the Property as intended  
15 by NRS 116.3116(2)(b).

16       **68.**     As the current beneficiary under the Deed of Trust and Valdivia Loan, U.S.  
17 Bank's interest still encumbers the Property and retains its first position status in the chain of  
18 title for the Property after the HOA Sale and is superior to the interest, if any, acquired by  
19 Buyer, or held or claimed by any other party.

20       **69.**     Upon information and belief, Buyer claims an interest in the Property through a  
21 Quitclaim Deed recorded in the Washoe County Recorder's Office as Document Number  
22 4361566 that is adverse to the Plaintiff's interest.

23       **70.**     Upon information and belief, the Valdivia Loan is a Federal Housing  
24 Administration ("FHA") insured loan.

25       **71.**     Title or a mortgage interest in real property held by a federal agency is a federal  
26 property that is protected by the U.S. Constitution.

27       **72.**     The Property Clause of the U.S. Constitution applies and prevents Plaintiff's  
28 interest through its Deed of Trust from being divested by the HOA Sale.

1           **73.**     The Supremacy Clause of the U.S. Constitution applies and prevents Plaintiff's  
2 interest through its Deed of Trust from being divested by the HOA Sale.

3           **74.**     Applying NRS Chapter 116 or other state law in a manner that extinguishes  
4 Plaintiff's Deed of Trust would violate the Property and Supremacy Clauses of the United  
5 States Constitution.

6           **75.**     Since the Valdivia Loan is an FHA loan, it is a federally protected property  
7 interest that cannot be divested by the actions of the Nevada Legislature through NRS Chapter  
8 116.

9           **76.**     Upon information and belief, the HOA, HOA Trustee and all fictitious  
10 Defendants did not comply with all mailing and noticing requirements stated in NRS 116.31162  
11 through NRS 116.31168.

12           **77.**     The CC&Rs for the HOA provide that Plaintiff's Deed of Trust encumbers the  
13 Property, even in the event the HOA conducts a sale pursuant to NRS 116.3116 et seq.

14           **78.**     Without providing Plaintiff notice of the correct super-priority amount and a  
15 reasonable opportunity to satisfy that amount, including its failure to identify the super-priority  
16 amount, its failure to adequately describe the deficiency in payment as required by Nevada  
17 statutes, the CC&Rs, and due process to Plaintiff and/or its predecessors was violated, and  
18 therefore the HOA Sale is void and should be set aside or rescinded because it was  
19 commercially unreasonable and deprived Plaintiff of its right to due process.

20           **79.**     HOA Trustee and/or the HOA failed to provide notice pursuant to the CC&Rs

21           **80.**     Based on the adverse claims being asserted by the parties, U.S. Bank is entitled  
22 to a judicial determination regarding the rights and interests of the respective parties to the case.

23           **81.**     For all the reasons set forth above and in the General Allegations, U.S. Bank is  
24 entitled to a determination from this Court, pursuant to 28 U.S.C. § 2201, NRS 30.010 et seq.,  
25 and NRS 40.010, that U.S. Bank is the beneficiary of a first position Deed of Trust which still  
26 encumbers the Property and is superior to the interest held by Buyer, the HOA, and all other  
27 parties, if any.

28           **82.**     In the alternative, if it is found under state law that Plaintiff's interest could have



1 been extinguished by the HOA Sale, for all the reasons set forth above and in the General  
2 Allegations, Plaintiff is entitled to a determination from this Court, pursuant to NRS 30.010 and  
3 NRS 40.010, that the HOA Sale is unlawful and void and conveyed no legitimate interest to  
4 Buyer.

5       **83.** U.S. Bank has furthermore been required to retain counsel and is entitled to  
6 recover reasonable attorney's fees for having brought the underlying action.

7                               **SECOND CAUSE OF ACTION**

8                               **(Preliminary Injunction versus Buyer)**

9       **84.** U.S. Bank incorporates by reference the allegations of all previous paragraphs, as  
10 if fully set forth herein.

11       **85.** As set forth above, Buyer may claim an ownership interest in the Property that is  
12 adverse to U.S. Bank.

13       **86.** Any sale or transfer of the Property, prior to a judicial determination concerning  
14 the respective rights and interests of the parties to the case, may be rendered invalid if U.S.  
15 Bank's Deed of Trust still encumbered the Property in first position and was not extinguished  
16 by the HOA Sale.

17       **87.** U.S. Bank has a reasonable probability of success on the merits of the complaint,  
18 for which compensatory damages will not compensate U.S. Bank for the irreparable harm of the  
19 loss of title to a bona fide purchaser or loss of the first position priority status secured by the  
20 Property.

21       **88.** U.S. Bank has no adequate remedy at law due to the uniqueness of the Property  
22 involved in the case.

23       **89.** U.S. Bank is entitled to a preliminary injunction prohibiting Buyer, its  
24 successors, assigns, and agents from conducting a sale, transfer or encumbrance of the Property  
25 if it is claimed to be superior to U.S. Bank's Deed of Trust or not subject to that Deed of Trust.

26       **90.** U.S. Bank is entitled to a preliminary injunction requiring Buyer to pay all taxes,  
27 insurance and homeowner's association dues during the pendency of this action.

28       **91.** U.S. Bank is entitled to a preliminary injunction requiring Buyer to segregate and

1 deposit all rents with the Court or a Court-approved trust account over which Buyer has no  
2 control during the pendency of this action.

3 92. U.S. Bank has been required to retain counsel to prosecute this action and is  
4 entitled to recover reasonable attorney's fees to prosecute this action.

5 **THIRD CAUSE OF ACTION**

6 **(Unjust Enrichment versus Buyer)**

7 93. U.S. Bank incorporates and re-alleges all previous paragraphs, as if fully set  
8 forth herein.

9 94. U.S. Bank has been deprived of the benefit of its secured deed of trust by the  
10 actions of Buyer.

11 95. Buyer has benefitted from the unlawful HOA Sale and nature of the real  
12 property.

13 96. Buyer has benefitted from U.S. Bank's payment of taxes, insurance or  
14 homeowner's association assessments since the time of the HOA Sale.

15 97. Should U.S. Bank's Complaint be successful in quieting title against Buyer and  
16 successful in setting aside the HOA Sale, Buyer will have been unjustly enriched by the HOA  
17 Sale and usage of the Property.

18 98. U.S. Bank will have suffered damages if Buyer is allowed to retain its interests in  
19 the Property and the funds received from the HOA Sale.

20 99. U.S. Bank will have suffered damages if Buyer is allowed to retain its interests in  
21 the Property and U.S. Bank's payment of taxes, insurance or homeowner's association  
22 assessments since the time of the HOA Sale.

23 100. U.S. Bank is entitled to general and special damages in excess of \$10,000.00.

24 101. U.S. Bank has furthermore been required to retain counsel and is entitled to  
25 recover reasonable attorney's fees for having brought the underlying action.

26 **FOURTH CAUSE OF ACTION**

27 **(Tortious Interference with Contract versus Buyer and the fictitious Defendants)**

28 102. U.S. Bank incorporates by reference the allegations of all previous paragraphs, as



104. The Deed of Trust evidencing the contract was and is a matter of public record, and therefore known to the HOA, HOA Trustee, the Buyer, and fictitious Defendants.

**106.** As an actual and proximate result of the Defendants' actions and inactions, U.S. Bank has sustained damages in excess of \$10,000.00.

## PRAYER

1. For a declaration and determination that U.S. Bank's interest is secured against the Property, and that U.S. Bank's first Deed of Trust was not extinguished by the HOA Sale;

2. For a declaration and determination that U.S. Bank's interest is superior to the interest of Buyer, the HOA, and fictitious Defendants;

3. For a declaration and determination that the HOA Sale was invalid to the extent it purports to convey the Property free and clear to Buyer;

4. In the alternative, for a declaration and determination that the Foreclosure Deed was invalid and conveyed no legitimate interest to Buyer;

5. For a preliminary injunction that Buyer, its successors, assigns, and agents are prohibited from conducting a sale or transfer of the Property;

6. For a preliminary injunction that Buyer, its successors, assigns, and agents pay all taxes, insurance and homeowner's association dues during the pendency of this action.

7. For a preliminary injunction that Buyer, its successors, assigns, and agents be

1 required to segregate and deposit all rents with the Court or a Court-approved trust account over  
2 which Buyer has no control during the pendency of this action.

3 8. If it is determined that U.S. Bank's Deed of Trust has been extinguished by the  
4 HOA Sale, for special damages in the amount of the fair market value of the Property or the  
5 unpaid balance of the Valdivia Loan and Deed of Trust, at the time of the HOA Sale, whichever  
6 is greater;

7 9. For general and special damages in excess of \$10,000.00;

8 10. In the alternative, for restitution in excess of \$10,000.00;

9 11. For attorney's fees;

10 12. For costs of incurred herein, including post-judgment costs;

11 13. For any and all further relief deemed appropriate by this Court.

12  
13 DATED this 15 day of October, 2015.

14  
15 WRIGHT, FINLAY & ZAK, LLP

16   
17

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25 BANK, NATIONAL ASSOCIATION, AS  
26 LEGAL TITLE TRUSTEE  
27  
28



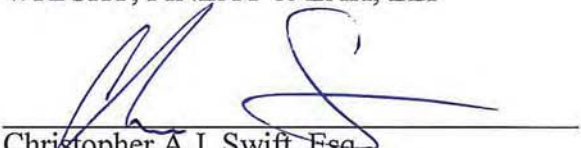
**AFFIRMATION**

Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding **U.S. BANK'S COMPLAINT FOR QUIET TITLE** filed in Case **does not** contain the social security number of any person.

DATED this 15<sup>th</sup> day of October, 2015.

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